



## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities under OMB Review

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (“PRA”), this notice announces that the Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (“OIRA”), of the Office of Management and Budget (“OMB”), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

**DATES:** Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at <https://www.reginfo.gov/public/do/PRAMain>. Please find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the website’s search function. Comments can be entered electronically by clicking on the “comment” button next to the information collection on the “OIRA Information Collections Under Review” page, or the “View ICR—Agency Submission” page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting <https://www.reginfo.gov/public/do/PRAMain>.

In addition to the submission of comments to <https://Reginfo.gov> as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the “Commission” or “CFTC”) by clicking on the “Submit Comment” box next to the descriptive entry for OMB Control No. 3038-0094, at <https://comments.cftc.gov/FederalRegister/PublicInfo.aspx>.

Or by either of the following methods:

- *Mail*: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.<sup>1</sup> The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:** Melissa A. D'Arcy, Special Counsel, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418-5086; email: [mdarcy@cftc.gov](mailto:mdarcy@cftc.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Clearing Member Risk Management (OMB Control No. 3038-0094). This is a request for an extension of a currently approved information collection.

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<sup>1</sup> 17 CFR 145.9.

*Abstract:* Section 3(b) of the Commodity Exchange Act (“Act” or “CEA”) provides that one of the purposes of the Act is to ensure the financial integrity of all transactions subject to the Act and to avoid systemic risk. Section 8a(5) of the CEA authorizes the Commission to promulgate such regulations that it believes are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the CEA. Risk management systems are critical to the avoidance of systemic risk.

Section 4s(j)(2) of the CEA requires each Swap Dealer (“SD”) and Major Swap Participant (“MSP”) to have risk management systems adequate for managing its business. Section 4s(j)(4) of the CEA requires each SD and MSP to have internal systems and procedures to perform any of the functions set forth in Section 4s.

Section 4d of the CEA requires Futures Commission Merchants (“FCMs”) to register with the Commission. It further requires FCMs to segregate customer funds. Section 4f of the CEA requires FCMs to maintain certain levels of capital and Section 4g of the CEA establishes reporting and recordkeeping requirements for FCMs.

Pursuant to these provisions, the Commission adopted Commission regulation 1.73 which applies to clearing members that are FCMs and Commission regulation 23.609 which applies to clearing members that are SDs or MSPs. These provisions require these clearing members to have procedures to limit the financial risks they incur as a result of clearing trades and liquid resources to meet the obligations that arise. The regulations require each clearing member to: (1) establish credit and market risk-based limits based on position size, order size, margin requirements, or similar factors; (2) use automated means to screen orders for compliance with the risk-based limits; (3) monitor for adherence to the risk-based limits intra-day and overnight; (4) conduct stress tests of all positions in the proprietary account and all positions in any customer account that could pose material risk to the futures commission merchant at least once per week; (5) evaluate its ability to meet initial margin requirements at least once per week; (6)

evaluate its ability to meet variation margin requirements in cash at least once per week; (7) evaluate its ability to liquidate the positions it clears in an orderly manner, and estimate the cost of the liquidation at least once per month; and (8) test all lines of credit at least once per quarter.

Each of these items has been observed by Commission staff as an element of an existing sound risk management program at an SD, MSP, or FCM. The Commission regulations require each clearing member to establish written procedures to comply with this regulation and to keep records documenting its compliance. The information collection obligations imposed by the regulations are necessary to implement certain provisions of the CEA, including ensuring that registrants exercise effective risk management and for the efficient operation of trading venues among SDs, MSPs, and FCMs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. On February 22, 2022, the Commission published in the Federal Register notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 87 FR 9582 (“60-Day Notice”). The Commission did not receive any relevant comments on the 60-Day Notice.

*Burden Statement:* The Commission is revising its estimate of the burden for this collection to reflect the current number of respondents and estimated burden hours. The respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* 167 (108 Clearing Member Swap Dealers and 59 Clearing Member Futures Commission Merchants).

*Estimated Average Burden Hours Per Respondent:* 504 hours.

*Estimated Total Annual Burden Hours:* 84,168 hours.

*Frequency of Collection:* As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: April 22, 2022.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2022-09019 Filed: 4/26/2022 8:45 am; Publication Date: 4/27/2022]